

STATE OF MICHIGAN  
COURT OF APPEALS

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PAUL A. JEAN,

Plaintiff-Appellant,

v

LARKIN CHARTER TOWNSHIP and  
LEONARD SERVINSKI,

Defendants-Appellees.

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UNPUBLISHED

June 19, 2007

No. 274127

Midland Circuit Court

LC No. 06-001039-CZ

Before: White, P.J., and Saad and Murray, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition in this action seeking to bar the township from further action concerning a proposed water district. Plaintiff claimed that the notice provided to affected property owners was misleading and deprived them of due process. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff and his wife own a parcel of property in defendant township. The township sought to extend its water system. The improvement is governed by MCL 41.722 *et seq.* Pursuant to MCL 41.724a, the township was required to send notice of a public hearing by first-class mail and to publish notice in a newspaper circulating in the township. If written objections to the improvement "by record owners of land constituting more than 20% of the total land area in the proposed special assessment district" were filed with the township board before the hearing, then the township could not proceed until a petition was filed that was signed "by the record owners of land constituting more than 50% of the total land area in the special assessment district as finally established by the board." MCL 41.723(1)(a), (3)(a).

The challenged notice stated in part:

**PLEASE TAKE FURTHER NOTICE** that if written objection to the Project are filed with the Township Board, at or before the hearing, signed by record owners of land constituting more than 20% of the area in the proposed assessment district, then the Township Board may not proceed unless petitions in support of the Project, signed by record owners of more than 50% of the area to be made into the assessment district, are filed with the Township. Written comments or objections may be filed with the Township Clerk as set forth above.

Before the hearing, plaintiff and several other individuals who owned parcels of property as tenants in the entirety signed and filed written objections that lacked the signature of their respective spouses. The township concluded that these objections were not valid because the “record owner” did not sign them. When these objections were disregarded, the remaining objections were from record owners of 20 percent or less of the land in the proposed district and, therefore, the township could proceed without a petition.

Plaintiff filed this action for a declaratory judgment and injunctive relief against the township and its supervisor, defendant Servinski. Relying on *Trussell v Decker*, 147 Mich App 312; 382 NW2d 778 (1985), plaintiff maintained that the notice was defective because it failed to indicate that all record owners for a property were required to sign the objection for it to be valid. Thus, plaintiff argued, “[a]s a result of the wording of the notice, the Plaintiff, along with the other record property owners, have been deprived of due process, since the language of the notice was misleading or untrue, omitted facts and failed to explain the matter in dispute.”

The trial court granted defendants’ motion for summary disposition. The court recognized that although an ordinary landowner could not be expected to understand the meaning of “record owners,” and tenants in the entirety, the notice was based on statutory language and was not incorrect in stating the law or the facts.

This Court reviews a trial court’s decision on a motion for summary disposition de novo. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

MCL 41.723 does not require that the notice include information concerning the filing of written objections. Thus, the statements in the notice concerning the filing of objections were not statutorily required.

The absence of an explanation of the meaning of “record owners” is not comparable to the deficiencies identified in the notice in *Trussell*, *supra*, pp 324-325. In that case, this Court determined that the notice was insufficient and denied due process because it lacked information that was necessary for property owners to know how to respond and it implied that they could only voice their objections to the proposal at the hearing. These deficiencies were considered significant because they impeded the property owners’ ability to discover the rights they had. Here, defendants provided notice that complied with the governing statutes and included further information alerting property owners of the process and the potential ramifications of filing written objections. That the notice included additional, accurate, but not comprehensive, information does not reduce the efficacy of the due process that was afforded by compliance with the statutory requirements. To hold otherwise would lead to the perverse conclusion that defendants would have better protected plaintiff’s due process rights by providing a notice containing *less* information.

Affirmed.

/s/ Henry William Saad  
/s/ Christopher M. Murray